

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re:	: Chapter 11
	:
MOTORS LIQUIDATION COMPANY, <i>et al.</i>,	: Case No.: 09-50026 (REG)
f/k/a General Motors Corp., <i>et al.</i>	: (Jointly Administered)
	:
Debtors.	:
-----X	

**STIPULATION AND SETTLEMENT RESOLVING
CLAIMS ASSERTED BY BILLY RAY KIDWELL**

This Stipulation and Settlement (“**Stipulation and Settlement**”) is entered into as of October 14, 2011 by and among General Motors LLC (f/k/a General Motors Company) (“**New GM**”) and Billy Ray Kidwell (“**Mr. Kidwell**,” and together with New GM, the “**Parties**”).

RECITALS

WHEREAS, on June 1, 2009 (“**Petition Date**”), Motors Liquidation Company (“**Old GM**”) and certain of its affiliates (collectively, with Old GM, the “**Debtors**”) commenced voluntary cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (“**Bankruptcy Court**”).

WHEREAS, pursuant to an Order of the Bankruptcy Court dated July 5, 2009, New GM purchased substantially all of the assets of the Debtors and has assumed certain of their liabilities.

WHEREAS, Mr. Kidwell has commenced an arbitration and various state and federal court proceedings (collectively, the “**Litigations**”) against Old GM and certain other parties that relate to claims arising from alleged defects with a Chevy S-10 pickup truck (“**Truck**”) purchased by Mr. Kidwell in 2003. A schedule setting forth the pending Litigations is annexed hereto as Exhibit “A.”

WHEREAS, subsequent to the Petition Date, Mr. Kidwell and Mrs. Kidwell filed various motions and/or other pleadings with the Bankruptcy Court (collectively, the “**Kidwell Pleadings**”), asserting various claims against New GM, its professionals and the Bankruptcy Court. A schedule setting forth the Kidwell Pleadings is included in Exhibit “A.” New GM filed responsive pleadings to the Kidwell Pleadings with the Bankruptcy Court, denying the relief requested therein.

WHEREAS, on September 26, 2011, the Bankruptcy Court heard oral argument on the Kidwell Pleadings, and the Bankruptcy Court reserved decision thereon, giving Mr. Kidwell and New GM thirty (30) days to attempt to negotiate a settlement of all of the relief requested by Mr. Kidwell in the Litigations and the Kidwell Pleadings.

WHEREAS, after good-faith, arms’ length negotiations, the Parties have reached an agreement (the “**Settlement**”) to resolve all of the relief requested by Mr. Kidwell in the Litigations and the Kidwell Pleadings.

NOW, THEREFORE, in considerations of the foregoing, it is hereby stipulated and agreed that:

1. In full settlement of any and all claims Mr. Kidwell, for himself and on behalf of his spouses, children, heirs, assigns, guardians, successors, executors, administrators, agents, insurers, servants, employees, representatives, trustees and attorneys (collectively, the “**Kidwell Parties**”), may have against New GM, Old GM, the other Debtors herein, and each of their respective current affiliates, their estates or their respective future successors or assigns, and their past, present and future members, officers, directors, executives, partners, principals, agents, insurers, servants, employees, administrators, executors, trustees, attorneys and other professionals (collectively, the “**GM Parties**”), New GM agrees to pay to Mr. Kidwell the sum of \$30,000 (the “**Settlement Amount**”).

2. Within five (5) business days of the Bankruptcy Court's approval of this Stipulation and Settlement and delivery to New GM of a completed Internal Revenue Service form W9 (a form of which is annexed hereto as Exhibit "B"), New GM, or one of its agents, will provide to Mr. Kidwell a check in the Settlement Amount, payable to Mr. Billy Ray Kidwell, at Mr. Kidwell's address, 5064 Silver Bell Drive, Port Charlotte, Florida, 33948. Upon receipt of the Settlement Amount, Mr. Kidwell shall be authorized and permitted to immediately dispose of the Truck, solely at his own cost and expense.

3. Upon the Settlement Amount being paid to Mr. Kidwell (i) each of the Kidwell Pleadings shall be deemed withdrawn, with prejudice, without any further action required by the Parties hereto, and (ii) Mr. Kidwell shall be deemed to have given his consent to the dismissal, with prejudice, of each of the Litigations, and New GM is authorized to seek such dismissal in the applicable tribunals with prejudice and without costs. Each Party agrees to reasonably cooperate with each other in furtherance of the terms of this Stipulation and Settlement, and to execute all such further documents as shall be reasonably necessary, required or helpful to carry out the terms, provisions and conditions of this Stipulation and Agreement.

4. Upon the payment of the Settlement Amount, the Kidwell Parties hereby fully, finally, and forever release all claims, debts, damages, demands, rights, liabilities, suits, matters, issues, and causes of action of every nature and description whatsoever, known or unknown, whether or not concealed or hidden, asserted or that might have been asserted, (including relating to or in connection with the settlement or resolution of this matter) against each and all of the GM Parties. The Kidwell Parties further agree not to sue or initiate against any of the GM Parties any lawsuit, action or proceeding, or participate in same, pertaining in any manner whatsoever to the claims released by the Kidwell Parties herein.

5. This Stipulation and Settlement comprises claims which are contested and shall not be deemed an admission by the GM Parties or the Kidwell Parties as to the merits of any claim or defense. The Parties agree that this Stipulation and Settlement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily. The Parties agree to and stipulate that each Party is relying upon these representations and warranties in entering into this Stipulation and Settlement.

6. The Kidwell Parties agree that neither this Stipulation and Settlement nor the Settlement contained herein is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the GM Parties in any civil, criminal, or administrative proceeding in any court, arbitration, administrative agency, or other tribunal.

7. This Stipulation and Settlement shall be binding upon, and inure to the benefit of, the successors and assigns to the Kidwell Parties and the GM Parties. All GM Parties are third party beneficiaries of and shall be entitled to enforce the releases contained in this Stipulation and Settlement.

8. This Stipulation and Settlement shall be exclusively governed by and construed and enforced in accordance with the laws of the State of New York, without regard to conflicts of law principles. The Bankruptcy Court for the Southern District of New York shall retain exclusive jurisdiction over any and all disputes arising out of or otherwise relating to this Stipulation and Settlement.

9. This Stipulation and Settlement constitutes the entire agreement between the Parties with respect to the subject matter hereof. There are no other covenants, promises, agreements, conditions or understandings, either oral or written, express or implied, between the Parties, except for this Stipulation and Settlement, with respect to its subject matter. The Parties represent and warrant that (i) they are not relying on any statements, understandings,

representations, expectations, or agreements other than those expressly set forth herein; (ii) they have been represented or advised by legal counsel, or have been given the opportunity to be represented and advised by legal counsel, in connection with this Stipulation and Settlement, which they make voluntarily and of their own choice and not under coercion or duress; (iii) they have made their own investigation of the facts and are relying upon their own knowledge; (iv) they knowingly waive any and all claims that this Stipulation and Settlement was induced by any misrepresentation or nondisclosure and knowingly waive any and all rights to rescind or avoid this Stipulation and Settlement based upon presently existing facts, known or unknown. These representations and warranties shall survive the execution of this Stipulation and Settlement.

10. No alteration, amendment or modification of this Stipulation and Settlement shall be effective or binding upon any Party unless in writing and duly executed by all Parties.

11. This Stipulation and Settlement may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument. This Stipulation and Settlement may be executed by facsimile or e-mail transmission.

[Remainder of Page Intentionally Left Blank]

THE UNDERSIGNED WARRANT THAT THEY HAVE READ THE TERMS OF THIS STIPULATION AND SETTLEMENT, HAVE HAD THE ADVICE OF COUNSEL OR THE OPPORTUNITY TO OBTAIN SUCH ADVICE IN CONNECTION WITH READING, UNDERSTANDING, AND EXECUTING THIS STIPULATION AND SETTLEMENT, AND HAVE FULL KNOWLEDGE OF THE TERMS, CONDITIONS, AND EFFECTS OF THIS STIPULATION AND SETTLEMENT.

WHEREFORE, the Parties executed this Stipulation and Settlement as of the date first written above.

GENERAL MOTORS LLC By: <u>/s/ Lawrence S. Buonomo</u> Print Name: <u>Lawrence S. Buonomo</u> Title: <u>Executive Director Litigation</u>	BILLY RAY KIDWELL By: <u>/s/ Billy R. Kidwell</u> Print Name: <u>Billy Ray Kidwell</u>
--	---

SO ORDERED this 17th day of October, 2011

s/ Robert E. Gerber

UNITED STATES BANKRUPTCY JUDGE
UNITED STATES BANKRUPTCY COURT

EXHIBIT “A”

LIST OF LITIGATIONS¹

1. *Kidwell v. G. Richard Wagoner, et al.*, United States District Court for the Middle District of Florida (Fort Myers Division); Case No. 2:09-cv-108 FtM-36-DNF, and any and all related appeals in the United States Court of Appeals for the Eleventh Circuit.
2. *Kidwell v. General Motors Corp., et al.*, Circuit Court of the Twentieth Judicial Circuit in and for Charlotte County, Florida, Case No. 05-1747-CA, and any and all related appeals in the District Court of Appeal of Florida, Second District, or in any other appellate court.

LIST OF KIDWELL PLEADINGS²

1. *Emergency Request for Expedited Mandatory Judicial Notice (ECF No. 7146)*
2. *Motion to Show Cause Why General Motors LLC and Its Corporate Governance, Should Not Be Held in Contempt for Intentionally Violating Court’s Orders, while Terrorizing a Disabled Combat Veteran, and his Family (ECF No. 7147).*
3. *Motion for Sanctions Against the Law Firm of King & Spalding LLP, and Attorneys Arthur Steinberg, and Scott Davidson for the Intentional Violation of Rule 9011(B)(1), Rule 9011(B)(2), Rule 9011(B)(3) and Rule 9011(B)(4) (ECF No. 8375).*
4. *Motion for Judicial Notice that GM Vehicle Warranties, State Lemon Law Obligations and Related Regulatory Obligations Under Such Statutes Are an Assumed Liability for the New General Motors LLC (ECF No. 8376).*
5. *Motion For Disqualification of Bias of Judge Robert E. Gerber (ECF No. 9026).*

¹ This List of Litigations is meant to encompass all litigations commenced by Mr. Kidwell against the GM Parties that relate to the claims and causes of action asserted by Mr. Kidwell against the GM Parties prior to the date of the attached Stipulation and Settlement. The failure to specifically set forth any pending litigation herein shall not, in any way, be deemed to be authorization or consent to the continued prosecution of such litigation, it being the intent of the Parties to dismiss, with prejudice, any and all litigations commenced by Mr. Kidwell against the GM Parties pending as of the date of the Stipulation and Settlement.

² This List of Kidwell Pleadings is meant to encompass all pleadings filed by Mr. Kidwell and/or Mrs. Kidwell in the Bankruptcy Court prior to the date of the attached Stipulation and Settlement that seek relief against the GM Parties. The failure to specifically set forth any pleading herein shall not, in any way, be deemed to be authorization or consent to the continued prosecution of such pleading, it being the intent of the Parties to dismiss, with prejudice, any and all pleadings or other requests for relief filed by Mr. Kidwell and/or Mrs. Kidwell in the Bankruptcy Court against the GM Parties that are pending as of the date of the Stipulation and Settlement.

EXHIBIT “B”